

BATTERY PARK CITY PARKS CONSERVANCY CORPORATION

REQUEST FOR PROPOSALS

FOR

REVERSE OSMOSIS SYSTEM MAINTENANCE

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I. SUMMARY

The Battery Park City Parks Conservancy Corporation (“BPCPC”) requests proposals (each individually, a “Proposal” or collectively, the “Proposals”) from water management, public utilities or other firms with relevant experience (each individually, a “Proposer” or collectively, the “Proposers”) to provide Reverse Osmosis System Maintenance services to BPCPC, which shall include, but not be limited to: (1) twice-weekly on-site Reverse Osmosis System inspection and maintenance, (2) monthly on-site testing for the following; biochemical oxygen demand, total suspended solids, total coliform, E. coli, pH and turbidity, (3) completion and submission of an annual report to the New York City Department of Buildings, (4) calibration of conductivity sensors as needed per the manufacturer’s recommendations, (5) purchasing and management of chemicals required to operate the Reverse Osmosis System in accordance with its operations & maintenance (“O&M”) manuals, (6) start-up of the Reverse Osmosis System at the beginning of the “Irrigation Season”, which runs from April 1 to October 31 annually, during the term of the contract, and (7) winterization of the Reverse Osmosis System at the end of the Irrigation Season during the term of the contract. The Reverse Osmosis System Maintenance services are more fully discussed in **Exhibit A**, “Work Description” below.

Minority-Owned Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”) are encouraged to submit Proposals.

This request for proposals, the attachments and any additional information submitted herewith, (collectively, the “RFP”) does not obligate BPCPC to complete the selection and contract award process. BPCPC reserves the right to: 1) accept or reject any and all Proposals; 2) request additional information from any or all Proposers to assist BPCPC in its evaluation process; 3) amend or withdraw this RFP prior to the announcement of the selected firm; and 4) award the proposed services, in whole or in part, to one or more firms. In case of an amendment to the RFP, all Proposers will be provided with a copy of any such amendment(s) and will be afforded the opportunity to revise their Proposals in response to the RFP amendment.

II. DESCRIPTION OF BPCPC

BPCPC is a non-profit organization whose main purpose is to manage, operate, and repair the parks and open spaces in and around Battery Park City’s residential and commercial areas. These responsibilities have been delegated to BPCPC by Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority (“BPCA”) through a written Management Agreement.

Created in 1988, BPCPC has a mandate to maintain and operate the parks in a first class manner. BPCPC carries out its mission by maintaining 36 acres of parks, playgrounds and open spaces, including a mile-long waterfront esplanade, in Battery Park City. BPCPC has used sustainable management practices for both its soft and hardscape areas. All BPCPC tasks, from horticultural practices to graffiti removal, are accomplished without the use of toxic chemicals.

BPCPC also develops programs and manages public events for the Battery Park City community. BPCA owns and has built out a commercial condominium unit in a residential building in Battery Park City, which serves as the BPCPC headquarters. BPCPC is organized into several different departments including horticulture, maintenance, parks programming and administration.

BPCA is a public benefit corporation created in 1968 under the laws of the State of New York for the purpose of financing, developing, constructing, maintaining, and operating a planned community development of the Battery Park City site as a mixed commercial and residential community.

To obtain a copy of BPCPC/BPCA’s most recently completed audited financial statements, please visit BPCA’s official website at www.batteryparkcity.org. The audited financial statements and related reports found on BPCA’s website will provide you with an overview of the operations for which BPCPC is responsible and the areas of

expertise in which the selected Proposer must be proficient. For an overview of BPCPC's operations, please visit its website at www.bpcparks.org.

III. SERVICES REQUIRED

- A. If selected, Proposer will be responsible for services delineated in the attached Work Description.
- B. All work to be performed by the selected Proposer shall be performed under the supervision of a principal of the firm in charge of this engagement (the "Lead Principal") who must ensure that the work completed for BPCPC is performed competently and in a timely manner.
- C. If selected, Proposer shall provide BPCPC with all of the chemicals required to operate the Reverse Osmosis until in accordance with Facility O&M manuals.

IV. KEY DATES, CONTRACT TERM AND MINIMUM QUALIFICATIONS

A. Key Dates

The following is a list of key dates, up to and including the date Proposals are due to be submitted, which is subject to change at BPCPC's discretion:

- Request for Proposals issued: **Monday, April 20, 2015**
- Pre-Proposal Meeting: **Monday, April 27th, 2015 at 9:00 a.m.** Meeting Location: BPCPC Offices, 75 Battery Place, 4th Floor, New York, NY 10280 (attendance is highly recommended).
- Deadline to submit questions to BPCPC: **Thursday, April 30, 2015** by 4:00 p.m. (by email only)

All questions regarding this RFP should be submitted in writing via email to the "Designated Contact": Evonne Marche, Office Manager, Battery Park City Parks Conservancy, at emarche@bpcparks.org

- Deadline for BPCPC's response to substantive questions: **Wednesday, May 6, 2015** (by email)
- **DUE DATE FOR RESPONSES TO RFP: Wednesday, May 13, 2015 by 3:00 p.m. (the "Due Date")**
- Selection and notification of successful Proposer: To be determined.
- Contract start date: To be determined.

B. Anticipated Contract Term

It is anticipated that the term of the contract awarded pursuant to this RFP (the "Contract") will be three (3) years.

BPCPC reserves the right to terminate the Contract at any time, with or without cause, upon thirty (30) days written notice. BPCPC reserves the right to terminate the Contract at any time, without prior notice, if the person identified in the Proposal as the Lead Principal for this engagement ceases to be employed by the selected Proposer.

C. Minimum Qualification Requirements

The following are the Minimum Qualification Requirements for this RFP. **Proposals that fail to comply with these requirements will be rejected.**

- 1) The Firm must have an office in New York State (a New York City office is preferred).

2) The Firm must be licensed to do business in the State of New York.

V. GENERAL REQUIREMENTS

A. Questions regarding MBE/WBE participation, joint ventures and sub-contracting goals

Please see **Exhibit B** (attached) for contractor requirements and procedures for business participation opportunities for New York State certified MBEs/WBEs and equal employment opportunities for minority group members and women.

For questions relating to MBE/WBE participation, joint ventures and sub-contracting goals ONLY, please contact “MBE/WBE Designated Contact” Mr. Anthony Peterson at 212.417.2337.

B. Restricted Period

Applicants are restricted from making contact with anyone other than the Designated Contact or MBE/WBE Designated Contact specified above during the period from the date of publication of the notice of this RFP in the New York State Contract Reporter through approval of the Contract by BPCPC (the “Restricted Period”). Employees of BPCPC are required to record certain contacts during the Restricted Period, including, but not limited to, any oral, written or electronic communication with a Proposer or any other entity under circumstances where a reasonable person would infer that the communication was intended to influence BPCPC’s conduct or decision regarding the governmental procurement, and to make a determination of responsibility based, in part, upon any such contact. Failure to abide by this process may result in a finding that the firm is a non-responsive Proposer.

C. Submission of Proposals

Proposals are due no later than 3:00 p.m. on Wednesday, May 13, 2015.

Proposers must submit ten (10) paper copies of their Proposals and one (1) electronic CD-Rom copy in a sealed package clearly marked “**Proposal Enclosed – Reverse Osmosis System Maintenance**” to the Designated Contact **by messenger, overnight courier or certified mail** to the following address:

Evonne Marche, Office Manager
Battery Park City Parks Conservancy
75 Battery Place
New York, New York 10280

BPCPC is not responsible for any internal or external delivery delays which may cause any Proposal to arrive beyond the stated Due Date. To be considered, Proposals must arrive at the time and place specified herein and be time stamped by BPCPC’s time stamp prior to the Due Date. Please leave ample time for building security, as late Proposals will not be accepted. Proposals submitted by fax or electronic transmission will NOT be accepted. A Proposer may, after submitting a Proposal, amend its Proposal by submitting a second, amended Proposal, clearly labeled “**Amended Proposal Enclosed - Reverse Osmosis System Maintenance,**” as long as the amended Proposal is submitted by the Due Date.

Public access to Proposals shall be governed by the relevant provisions of the Freedom of Information Law, Article 6 of the New York State Public Officers Law, and regulations adopted pursuant thereto.

D. Mandatory Forms

Proposers must complete and include with their Proposal all “Mandatory Forms,” which can be found at the following URL address: http://www.batteryparkcity.org/pdf_n/Mandatory_Forms_Packet.pdf, by the Due Date.

These Mandatory Forms include the following:

1) NYS Standard Vendor Responsibility Questionnaire – **one (1) original unbound set of a completed NYS Standard Vendor Responsibility Questionnaire with original ink signatures. Do not include the Standard Vendor Responsibility Questionnaire in the bound copies of the Cost Proposal.** The NYS Standard Vendor Responsibility Questionnaire must be notarized and signed by the individual(s) authorized to bind the firm contractually. Indicate the title or position that the signer holds within the firm.

2) State Finance Law § 139 Form 1 – **one original unbound completed SFL 139 Form 1: Professional’s Certifications Pursuant to SFL § 139-j and § 139-k with original signature.** State Finance Law § 139 Forms 1 must be signed by the individual(s) authorized to bind the firm contractually.

3) W-9 form.

4) Statement of Non-Collusion.

5) Diversity Forms.

VI. PROPOSAL FORMAT AND CONTENTS

A. Proposal Format

The Proposal must be printed on 8½” x 11” paper. Pages should be numbered. The Proposal will be evaluated on the basis of its content, not length and should be limited to no more than ten (10) pages, exclusive of the Transmittal Letter and the Appendices listed below. BPCPC reserves the right to disqualify Proposals that fail to comply with any of these instructions.

B. Proposal Content

A Proposal in response to this RFP must include the following sections in the order listed:

1) Transmittal Letter, as follows:

The Proposal must include a signed Transmittal Letter from a person within the firm who is authorized to bind the firm, preferably the Lead Principal. **Transmittal Letters must be signed. Proposals with unsigned Transmittal Letters will be rejected.**

The Transmittal Letter must include a representation by the Proposer that, except as disclosed in the Proposal, no officer or employee of the Proposer is directly or indirectly a party to or in any other manner interested financially or otherwise in this RFP.

2) Executive Summary.

3) Firm’s discussion of its understanding of the Services Required (see Section III).

4) Firm’s Responses to the RFP Questions and RFP Additional Information Request, set forth below.

5) Firm’s Cost Proposal, as described below.

- 6) Firm's response to the question regarding the use of New York State businesses set forth in Section X of this RFP.

C. RFP Questions

- 1) Briefly describe your firm's background, size, and history as it may be relevant to the Services Required, with an emphasis on compliance with New York City and New York State water rules and regulations, large scale sustainable residential and industrial water treatment methods, reverse osmosis systems, irrigation systems, including all plumbing and controls, and methods of water testing.
- 2) If your offices are located in more than one city, indicate which office will provide the services.
- 3) Describe the relevant special services your firm provides, particularly those that may not be offered by other firms.
- 4) Describe your experience and methodology for maintaining reverse osmosis systems and the management of regular water testing.
- 5) Please describe your experience handling chemicals required to operate the Reverse Osmosis System in accordance with its O&M manuals, as well as your process for handling water samples for collection and delivery to a certified laboratory.
- 6) Within the past three years, have there been any significant developments in your firm such as changes in ownership or restructuring? Do you anticipate any significant changes in the near future? If so, please describe.
- 7) Describe the on-line services, publications, training/seminars and other resources, if any, maintained by your firm that would be available to BPCPC.
- 8) How does your firm identify and manage conflicts of interest?
- 9) Are there any potential conflict of interest issues in representing BPCPC?
- 10) List any professional or personal relationships your firm's principal or officers may have with BPCPC's Board and/or staff members of BPCPC and BPCA, as listed on **Exhibit C**.
- 11) Has your firm or any of the firm's partners/employees been disciplined or censured by any regulatory body within the last five years? If so, please describe the relevant facts.
- 12) Within the last five years, has your firm, or a partner or employee in your firm, been involved in litigation or other legal proceedings relating to the provision of Reverse Osmosis System Maintenance services? If so, please provide an explanation and the current status or disposition of the matter.
- 13) List all of the operators you intend to assign to this engagement and the area(s) of specialization for each operator. Describe the role of each operator who will be assigned to this engagement.
- 14) Identify the Lead Principal who will be the primary contact and lead operator in providing services to BPCPC, and who will be listed as a "key person" in any contract with BPCPC.
- 15) Describe your proposed team's experience with similar work for other public agencies and authorities, with a particular emphasis on New York State agencies and authorities.
- 16) Describe your firm's "backup plan" in the event one or more of the operators assigned to this engagement leave the firm.
- 17) In the past five years, have any public sector clients terminated their working relationship with your firm? If so, please provide a brief statement of the reasons. Provide the name of the client and each such client's in-house counsel's name, address and telephone number.
- 18) Please provide any additional information which would serve to distinguish your firm from other firms and that you believe may be relevant to this RFP and your capability to perform the services requested.

D. RFP Additional Information Request

1) Insurance:

- a. Do you impose any limitations on liability through your contracts?

b. Describe the levels of coverage for any insurance your firm carries. List the insurance carrier(s) or provide an insurance certificate showing your firm's coverage in accordance with the following:

- Commercial General Liability Insurance limits shall not be less than \$1 million per occurrence and \$4 million in the aggregate;
- Umbrella Liability limits shall not be less than \$4 million;
- Automobile liability (Combined Single Injury, Bodily Injury and Property Damage) limits shall not be less than \$1 million;
- Worker's Compensation shall not be less than the applicable statutory limits; and
- Disability Insurance as required by applicable provisions of law.

The costs of the insurance shall be included in the Proposal. BPCA, BPCPC and the State of New York shall be listed as Additional Insured on CG 2010 (11/85) or similar form and should be included as such on all subcontracts. Policies should contain no limitations/exclusions for Labor Law claims.

2) Appendices:

a. Include professional biographies for all operators listed in your Proposal.

3) References:

Please provide at least three client (3) references for whom your firm has performed similar work and on similar systems to that requested in this RFP. For each client, please provide the name, address and telephone number for the client's Lead Principal and/or other qualified personnel.

4) Financial Statements:

Please provide a copy of your firm's most recent Audited Financial Statements (within the last year).

E. Cost Proposal

The "Cost Proposal" must state the monthly fee for each month of the three-year lease term, inclusive of all costs for performance of the Services Required as outlined in **Exhibit A**.

The Cost Proposal, regardless of whether it's bound, must be submitted in its own separate envelope within the sealed package containing all of the other Proposal documents. For the avoidance of doubt, the Cost Proposal must be submitted separately and unbound from the remainder of the Proposal documents. Please provide two (2) copies of the Cost Proposal.

VII. THE EVALUATION PROCESS

A. Objectives

The primary objective of the evaluation process is to select a firm:

- That demonstrates a thorough understanding of the scope of the engagement and the specific responsibilities that it entails;
- Possesses adequate resources to handle assigned responsibilities and to handle unforeseen circumstances that may arise;
- Assigns highly skilled, experienced, diligent, responsible and professional personnel to perform the required services;
- Maintains high ethical standards and has an unblemished reputation; and

- Has no conflict of interest between its representation of BPCPC and that of other clients.

The selection process will begin with the review and evaluation of each of the written Proposals. The purpose of this evaluation process is twofold: (1) to examine the responses for compliance with this RFP and (2) to identify the complying firms that have the highest probability of satisfactorily performing the Services Required at a reasonable cost to BPCPC. The evaluation process will be conducted in a comprehensive and impartial manner. The evaluation process will be conducted by a committee of BPCPC’s employees selected by BPCPC (the “Committee”). **The Committee will evaluate the Proposals based upon the evaluation criteria for selection set forth below.**

BPCPC reserves the right to reject and return unopened to the Proposer any Proposal received after the RFP Due Date. All timely submitted Proposals will be reviewed to determine if they contain all required submittals specified herein. Incomplete Proposals may be rejected.

B. Interviews

BPCPC reserves the right to determine whether interviews will be necessary for any or all of the Proposers. The purpose of the interview is to further document a Proposer’s ability to provide the Services Required, and to impart to the Committee an understanding of how specific services will be furnished. The proposed Lead Principal as well all other key personnel proposed to provide the services must be present and participate in the interview. The firm will be evaluated on the basis of whether the interview substantiates the characteristics and attributes claimed by the Proposer in its written response to this RFP and any other information requested by the Committee prior to the interview.

C. Evaluation Criteria for Selection

Selection will be based upon the following criteria:

- | | |
|--|------------|
| 1) Firm’s overall experience with the work as outlined in Exhibit A : | 45% |
| 2) Qualification of staff performing onsite work: | 25% |
| 3) Cost Proposal: | 15% |
| 4) Proposed MBE/WBE utilization plan and/or Firm’s MBE/WBE status: | 15% |

D. Basis for Contract Award

The Contract will be awarded to the highest technically rated Proposer whose Proposal is determined to be responsive and in the best interests of BPCPC, subject to a determination that the Cost Proposal is fair and reasonable.

VIII. NON-COLLUSION

By submitting a Proposal, Proposers hereby warrant and represent that any ensuing Contract has not been solicited or secured directly or indirectly in a manner contrary to the laws of the State of New York, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the Contract by any conduct, including the paying or giving of any fee, commission, compensation, gift, or gratuity or consideration of any kind, directly or indirectly, to any member of the board of directors, employee, officer or official of BPCPC.

IX. IRAN DIVESTMENT ACT

By submitting a Proposal or by assuming the responsibility of any Contract awarded hereunder, Proposers hereby certify that they are not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the New York State Office of General Services website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certify that they will not utilize any subconsultant that is identified on the Prohibited Entities List on this Contract. The selected Proposer agrees that should it seek to renew or extend any Contract awarded hereunder, it must provide the same certification at the time the Contract is renewed or extended. The selected Proposer also agrees that any proposed assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before BPCA may approve a request for assignment of the Contract.

During the term of any Contract awarded hereunder, should BPCA receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, BPCA will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the New York State Iran Divestment Act of 2012 within 90 days after the determination of such violation, then BPCA shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the selected Proposer in default of the awarded Contract.

BPCA reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with the selected Proposer should it appear on the Prohibited Entities List hereafter.

X. ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Proposers for this Contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Proposers need to be aware that all authorized users of this Contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor’s optimal performance under the Contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their contracts. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State businesses be used in the performance of this contract? ___ Yes ___ No

If yes, identify New York State businesses that will be used and attach identifying information.

EXHIBIT A

WORK DESCRIPTION

REVERSE OSMOSIS SYSTEM

The components of the Reverse Osmosis System include:

- Reverse Osmosis treatment unit;
- Program logic controller;
- Pre- and post-osmosis unit filters;
- Conductivity monitoring system;
- 5,000 gallon water storage tank; and
- Associated pumps and control.

NOTE: irrigation pumps, valves and controls are not included as part of the above description and are excluded from the scope of work.

BASIC SERVICES*

Below are the services that the winning Proposer must provide annually during the Irrigation Season:

- An operator for two weekly visits, which must occur on non-consecutive weekdays during working hours (7 a.m. - 4 p.m., Monday to Friday for Reverse Osmosis System inspection and maintenance;
- Monthly on-site testing, including sample collection and delivery to a certified laboratory for the following tests:
 - o Biochemical oxygen demand;
 - o Total suspended solids;
 - o Total coliform;
 - o E. coli;
 - o pH; and
 - o Turbidity.
- Completion and submission of an annual report to the New York City Department of Buildings;
- Calibrate of conductivity sensors as needed per the manufacturer's recommendations;
- Purchase and manage all chemicals required to operate the Reverse Osmosis System in accordance with its O&M manuals;
- Start-up of the Reverse Osmosis System at the start of the Irrigation Season (the exact start-up date will be at BPCPC's direction); and
- Winterization of the Reverse Osmosis System at the end of the Irrigation Season (the exact winterization date will be at BPCPC's direction).

* **ALL** sample and reporting requirements will be provided in accordance with all applicable laws and regulations for the City and State of New York.

ADDITIONAL SERVICES/ADDITIONAL SERVICES FEES AND COST

As part of its Cost Proposal, Proposer should provide estimates for the following Additional Services below, should such work be required.

- Reverse Osmosis System repairs and replacements;
- Emergency calls outside of the regularly scheduled twice weekly visits; and
- Preparation and filing of an application for the renewal and modification of any requisite governmental permits, approvals or certifications for the Reverse Osmosis System.

EXCLUDED SERVICES

Proposer shall NOT be responsible for the following services:

- Reverse Osmosis System capital improvements;
- Utilities required for Reverse Osmosis System operation, including gas, electric, phone, water, cable and fuel;
- Snow removal and grounds keeping required to provide access to or within the Reverse Osmosis System; and
- Maintenance, repair, replacement or capital improvements to any irrigation system components.

EXHIBIT B

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MBEs/WBEs AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145, BPCA recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified MBEs/WBEs and the employment of minority group members and women in the performance of BPCA contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether MBEs/WBEs had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title “The State of Minority and Women-Owned Business Enterprises: Evidence from New York” (the “Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of MBEs/WBEs in state procurement contracting versus the number of MBEs/WBEs that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified MBEs/WBEs program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that BPCA establish goals for maximum feasible participation of New York State Certified MBEs/WBEs and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MBEs/WBEs

For purposes of this solicitation, BPCA hereby establishes an overall goal of 30% for MBE/WBE participation, 15% for MBE participation and 15% for WBE participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the Contract must document good faith efforts to provide meaningful participation by MBEs/WBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that BPCA may withhold payment pending receipt of the required MBE/WBE documentation. The directory of New York State Certified MBEs/WBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=7562>. For guidance on how BPCA will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MBE/WBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and BPCA may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MBEs/WBEs had Contractor achieved the contractual MBE/WBE goals; and (2) all sums actually paid to MBEs/WBEs for work performed or materials supplied under the Contract.

By submitting a bid or Proposal, a Proposer agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MBEs/WBEs by submitting evidence thereof through the New York State Contract System (the “NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Proposer may arrange to provide such evidence via a non-electronic method by contacting BPCA. Please note that the NYSCS is a one stop solution for all of your MBE/WBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet the Proposer’s MBE/WBE requirements please see the attached MBE/WBE guidance from the New York State Division of Minority and Women’s Business Development, “Your MWBE Utilization and Reporting Responsibilities Under Article 15-A.”

- A. Additionally, a Proposer agrees to submit a Utilization Plan with their bid or Proposal as evidence of compliance with the foregoing. Any modifications or changes to the Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised Utilization Plan and submitted to BPCA.

- B. BPCA will review the submitted Utilization Plan and advise the Proposer of BPCA’s acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Proposer agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to BPCA, at the address specified in this RFP, or by facsimile at 212-417-2279 a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by BPCA to be inadequate, BPCA shall notify the Proposer and direct the Proposer to submit, within five (5) business days, a request for a partial or total waiver of MBE/WBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or Proposal.
- D. BPCA may disqualify a Proposer as being non-responsive under the following circumstances:
 - 1) If a Proposer fails to submit a Utilization Plan;
 - 2) If a Proposer fails to submit a written remedy to a notice of deficiency;
 - 3) If a Proposer fails to submit a request for waiver; or
 - 4) If BPCA determines that the Proposer has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE/WBE identified within its Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to the Contract award may be made at any time during the term of the Contract to BPCA, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor’s MBE/WBE Contractor Compliance & Payment Report to BPCA on a monthly basis over the term of the Contract documenting the progress made toward achievement of the MBE/WBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or Proposal in response to this RFP, the Proposer/Contractor agrees with all of the terms and conditions of the attached M/WBE – Equal Employment Opportunity Policy Statement. The Contractor is required to ensure that it shall and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon, except where such work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract or (ii) employment outside New York State.

The Proposer further agrees to submit a MBE/WBE and Equal Employment Opportunity Policy Statement, Form # 4, to BPCA with their Proposal.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other New York State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as are allowed by the Contract.

For questions on MBE/WBE participation, joint ventures and sub-contracting goals ONLY, please contact Mr. Anthony Peterson at 212.417.2337.



Your MBE/WBE Utilization and Reporting Responsibilities Under Article 15-A

The New York State Contract System (“NYSCS”) is your one stop tool compliance with New York State’s MBE/WBE Program. It is also the platform New York State uses to monitor state contracts and MBE/WBE participation.

GETTING STARTED

To access the system, please login or create a user name and password at <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=7562>. If you are uncertain whether you already have an account set up or still need to register, please send an email to the customer service contact listed on the Contact Us & Support page, or reach out to your contract’s project manager. For verification, in the email, include your business name and contact information.

VENDOR RESPONSIBILITIES

As a vendor conducting business with New York State, you have a responsibility to utilize minority- and/or women-owned businesses in the execution of your contracts, per the MBE/WBE percentage goals stated in your solicitation, incentive proposal or contract documents. NYSCS is the tool that New York State uses to monitor MBE/WBE participation in state contracting. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

There are several reference materials available to assist you in this process, but to access them, you need to first be registered within the NYSCS. Once you log onto the website, click on the **Help & Support** >> link on the lower left hand corner of the Menu Bar to find recorded trainings and manuals on all features of the NYSCS. You may also click on the **Help & Tools** icon at the top right of your screen to find videos tailored to primes and subcontractors. There are also opportunities available to join live trainings, read up on the “Knowledge Base” through the Forum link, and submit feedback to help improve future enhancements to the system. Technical assistance is always available through the **Contact Us & Support** link on the NYSCS website (<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=7562>).

For more information, contact your project manager.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

MBE/WBE AND EEO POLICY STATEMENT

I, _____ (the “Contractor”), agree to adopt the following policies with respect to the project being developed at, or services rendered to, the Battery Park City Authority (“BPCA”).

MBE/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the MBE/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively soliciting bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to MBE/WBE contractor associations.
- (2) Requesting a list of State-certified MBEs/WBEs from BPCA and soliciting bids from these MBEs/WBEs directly.
- (3) Ensuring that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective MBEs/WBEs.
- (4) Where feasible, dividing the work into smaller portions to enhance participations by MBEs/WBEs and encourage the formation of joint venture and other partnerships among MBE/WBE contractors to enhance their participation.
- (5) Documenting and maintaining records of bid solicitation, including those to MBEs/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting MBE/WBE contract participation goals.
- (6) Ensuring that progress payments to MBEs/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives are developed to encourage MBE/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing diversity programs to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of BPCA, this organization shall request that each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this _____ day of _____, 2015

By _____

Print: _____ Title: _____

_____ is designated as the Contractor's Minority Business Enterprise Liaison responsible for administering the Minority and Women-Owned Business Enterprises - Equal Employment Opportunity (MBE/WBE - EEO) program.

MBE/WBE Contract Goals

30% Minority and Women's Business Enterprise Participation

___% Minority Business Enterprise Participation

___% Women's Business Enterprise Participation

EEO Contract Goals (if applicable)

___% Minority Labor Force Participation

___% Female Labor Force Participation

(Authorized Representative)

Title: _____

Date: _____

EXHIBIT C

LIST OF BOARD MEMBERS

Dennis Mehiel
 Frank Branchini
 Don Capoccia
 Martha Gallo
 Lester Petracca

LIST OF BPCA EMPLOYEES – APRIL 2015

1	Elsa Alvarez
2	Davina Anderson
3	Kathleen Bailey
4	Marie Baptiste
5	Freddy Belliard
6	Nidia Blake-Reeder
7	Marc Brotman
8	Lauren Brugess
9	Anthony Buquicchio
10	Deshay Crabb
11	Gwen Dawson
12	Maria Ellison
13	Robin Forst
14	Joseph Ganci
15	Julissa Garcia
16	Luis Garcia
17	Abigail Goldenberg
18	Neresa Gordon
19	Sonia Henry
20	Shari Hyman
21	Benjamin Jones
22	Susie Kim
23	Karl Koenig
24	Leandro Lafuente
25	Michael LaMancusa
26	Della Lee
27	Evelin Maisonet
28	Kevin McCabe
29	Brenda McIntyre
30	Shinay McNeill
31	Bertha Narcisse
32	Robert Nesmith
33	Siu May NG
34	Dahlia Pena
35	Anthony Peterson
36	Alix Pustilnik

37	Robert Quon
38	Jason Rachnowitz
39	Anthony Robinson
40	Andrea Rodriguez
41	Robert Serpico
42	Rekha Sewraj-Kumar
43	Seema Singh
44	Linda Soriero
45	John Tam
46	Alexis Torres
47	Ryan Torres
48	Sharon Wade
49	Angela Whitehead
50	Kenneth Windman
51	Bingxin Zheng

LIST OF BPCPC EMPLOYEES – APRIL 2015

1	Dana Anders
2	Anthony Andriano
3	Stephen Arciold
4	Scott Birdseye
5	Nancy Buivid
6	Monica Centeno
7	Betty Chin
8	Adam Choper
9	Carlton Chotalal
10	Gilbert DePadua
11	Paul Diaz-Larui
12	Abigail Ehrlich
13	Richard Faraino
14	Eric T. Fleisher
15	Lenron Goode
16	Patrick Greene
17	Ned Greenberg
18	Evelyn Gregg
19	Kelly Grogan
20	Robert Hansen
21	Nicole Heater
22	Sankar Heerah
23	Craig Hudon
24	Tess Huxley
25	Amy Jogie
26	Kadia Kane
27	Roland Kemp

28	Kurtis King
29	Betzayda Laboy
30	Tony Lee
31	Marianna Lerner
32	Triny Lima
33	Luis Lopez
34	Robert Maggi
35	Evonne Marche
36	Philip Mason
37	Ellen McCarthy
38	Princess McNeill
39	Vanessa Mesine
40	Ronnie Mohammed
41	Yoshihiro Nishida
42	Kevin O'Toole
43	Hector Oyola
44	Willem Paillant
45	Gladys Pearlman
46	Churaman Persaud
47	Bruno Pomponio
48	Sandra Power
49	Madelin Ramirez
50	Manuel Rivera
51	Nelson Rogers
52	Jose Rosado
53	Holly Ross
54	Sebastian Rozalski
55	Carlos Santiago
56	Jean Schwartz
57	Lindsey Senn
58	Sean Simon
59	Kemnarine Singh
60	Timothy Skipper
61	Kareem Starks
62	Jerome Sturiano
63	Douglas VanHorn
64	Noe Velasquez
65	Evangelio Villalobos
66	Peter Wheelwright
67	Arthur White
68	Eric White
69	Al Wright
70	Jouli Yohannes